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In the Supreme Court of the United States

OCTOBER TERM [redacted] 1969

No. [redacted] 187

A & S TROPICAL, INC.,
Petitioner,

vs.

HIRAM WALKER, INCORPORATED and
SOUTH FLORIDA LIQUOR DISTRIBUTORS, INC.,
Respondents.

REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT.

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MIAMI REVIEW — 871-4693 — 877-5721

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In the Supreme Court of the United States

OCTOBER TERM 1968

No. 1471

A & S TROPICAL, INC.,

Petitioner,

vs.

HIRAM WALKER, INCORPORATED and SOUTH FLORIDA LIQUOR DISTRIBUTORS, INC.,

Respondents.

REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT.

ARGUMENT

Although the general rule is that one who is incidentally injured by the violation of anti-trust laws cannot recover, relief is available to a victim directly injured by price discrimination. *Perkins v. Standard Oil Company*, __ U.S. __, 23 L.Ed.2d 599, 89 S.Ct. __ (1969). In *Perkins*, injuries resulted in part from impaired competition with a customer of a customer of the favored purchaser. The

Court held that anti-trust provisions were applicable, as it did in the analogous case of *F.T.C. v. Fred Meyer, Inc.*, 390 U.S. 341, 19 L.Ed.2d 1222, 88 S.Ct. 904 (1968). Injury to Petitioner in the case at bar was the result of a similar suppression of competition.

Economic power can be conferred by a cost advantage in producing a product. *Fortner Enterprises v. U.S. Steel Corp.*, ___ U.S. ___, 22 L.Ed.2d 495, ___ S.Ct. ___ (1969). Such privileged manufacture or distribution deprives the market of competition on the merits. Restraint on free competition through controlled economic power violates the anti-trust laws.

CONCLUSION

For the foregoing reasons as well as those contained in Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit, it is respectfully submitted that this Court should grant Petition for Writ of Certiorari and reverse the decision of the United States Court of Appeals for the Fifth Circuit.

Respectfully submitted,

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By _____
Natalie Baskin

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Reply Brief in Support of Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit was mailed to Antonio Martinez, Jr., 10th Floor, First National Bank Bldg., Miami, Florida 33131, James C. McKay and George V. Allen, Jr., 888 - 16th Street, N. W. Washington, D. C. 20006, Ward, Ward, Straessley, Hiss & Kluttz, 1240 duPont Building, Miami, Florida 33131 and Salley, Barnes, Pajon & LaFontisee, 100 Biscayne Tower, Suite 700, Miami, Florida 33132 this ____ day of _____, 1969.

_____

Natalie Baskin